

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Re: Appl. No. : 10/736,187 Confirmation No. 4371
Applicant : Glen Roger CARON
For : CONVEYOR FOR PRINTED SHEET MATERIAL
WITH AIR ASSISTED DROP
Filed : 12/15/2003
Art Unit : 3653
Examiner : Matthew J. Kohner
Docket No. : 6001.1298
Customer No. : 23280

Submitted Electronically via EFS-Web
Mail Stop: APPEAL BRIEF – PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

August 11, 2010

APPELLANT'S REPLY BRIEF UNDER 37 C.F.R. §41.41

Sir:

Appellants submit this Reply Brief for consideration of the Board of Patent Appeals and Interferences (the "Board") in response to the Examiner's Answer dated July 7, 2010 and in support of their appeal of the Final Office Action issued on January 31, 2007. Appellants respectfully reassert each of the arguments asserted in Appellants' Brief dated September 9, 2009 and provides herein only additional comments in response to the arguments raised in the Examiner's Answer.

No fee is believed required. If any fee is required at this time, the Commissioner is authorized to charge payment of the same to Deposit Account No. 50-0552.

ARGUMENTS

Claim 1

Neither Manley nor Brooke discloses or makes obvious a “pocket being movable with respect to the air source” as recited in claim 1. It is respectfully submitted that the Examiner’s explanation of why a stationary air source integrally connected to tray 101 in a xerographic reproducing machine 10 and movable pockets of collating conveyor 54 would have allegedly made obvious the relationship between the “air source” and the “pocket” recited in claim 1 is clearly derived from the present invention and not based on either of Brooke or Manley. The Examiner states:

The fact that Brookes pocket is stationary would not have prevented one of ordinary skill in the art from recognizing Brookes method of applying air to reduce friction should be applied to a pocket regardless of whether the pocket is stationary or movable. Additionally, in a device such as Manley’s with many moveable pockets, it would have been obvious that adding an air source to each pocket, rather than a single air source would be extremely wasteful. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have applied Brookes teaching to movable pockets such as Manley’s and that the pockets would be movable with respect to an air source. (Examiner’s Answer, page 4).

It is respectfully submitted that the Examiner’s statements are conclusory and clearly do not establish the requisite articulated reasoning required to support a prima facie case of obviousness.

The Examiner merely acknowledges that Brooke specifically teaches tray 101 and the air source being stationary and integrally connected and then jumps to the conclusion that the arrangement of claim 1 would have been obvious because applying the specific teaching of Brooke to Manley would be “extremely wasteful.” (Examiner’s Answer, page 4). The Examiner’s statements do not explain how and why, at the time of the invention, one of ordinary skill in the art would have combined the stationary and integrally connected tray 101 and the air source of Brooke with the movable pockets of Manley. (See MPEP 2142; *KSR Int’l Co. v. Teleflex Inc.*, 383 127 S. Ct. 1727, 1740-41 (2007) (“[R]ejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”)). Also, by immediately dismissing the specific teachings of Brooke as being “extremely wasteful,” the Examiner even illustrates why the alleged combination would not have been obvious. Thus, it is respectfully submitted that the Examiner’s

assertions are based solely on impermissible hindsight bias and the need to meet the claim language, not any evidence or articulated reasoning based on the cited references and knowledge of one of ordinary skill in the art at the time of the present invention.

Additionally, it is respectfully submitted the Examiner's comments in the "Response to Argument" section of the Examiner's Answer further illustrate that it would not have been obvious to one of ordinary skill in the art to have modified collating conveyor 54 of Manley in view xerographic reproduction machine 10 of Brooke to include a "pocket being movable with respect to the air source" as recited in claim 1. In responding to Applicant's statements that the fact that Brooke shows a stationary air source and Manley shows movable pockets is insufficient to make obvious the claimed "pocket being movable with respect to the air source," the Examiner merely states:

Though the pocket of Brooke is stationary, the pocket of Manley is movable, and Brooke teaches a stationary air source. Therefore, Manley and Brooke teach "an air supply device providing air to the pocket at the release area, the air supply device including an air source, the pocket being movable with respect to the air source." (Examiner's Answer, page 5).

It is respectfully submitted that the Examiner's conclusory statements further show that the Examiner's assertions are based solely on impermissible hindsight bias and the need to meet the claim language, not any evidence or articulated reasoning based on the cited references and knowledge of one of ordinary skill in the art at the time of the present invention.

Reversal of the rejection under 35 U.S.C. §103(a) of claim 1 is respectfully requested.

Claim 13

Neither Manley nor Brooke discloses or teaches "providing pressurized air to the printed sheet material as the pockets move past a pressurized air source" and it would not have been obvious to one of skill in the art to have modified the process in Manley in view of Brooke to have included this step. One of skill in the art would not have had any reason to have modified Manley in view of Brooke to include the "providing" step of claim 13 because Brooke specifically teaches tray 101 and the air source being stationary and integrally connected to one another. The Examiner's determination of obviousness with respect to claim 13 is clearly not based on the requisite evidence or articulated reasoning required to support a prima facie case of

obviousness. The Examiner merely acknowledges that Brooke specifically teaches tray 101 and the air source being stationary and integrally connected and then jumps to the conclusion that the arrangement of claim 1 would have been obvious because applying the specific teaching of Brooke to Manley “would be extremely wasteful.” (Examiner’s Answer, page 4). The Examiner’s statements do not explain how and why, at the time of the invention, one of ordinary skill in the art would have combined the stationary and integrally connected tray 101 and the air source of Brooke with the movable pockets of Manley. (See MPEP 2142; *KSR Int’l Co. v. Teleflex Inc.*, 383 127 S. Ct. 1727, 1740-41 (2007) (“[R]ejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”)). Also, by immediately dismissing the specific teachings of Brooke as being “extremely wasteful,” the Examiner even illustrates why the alleged combination would not have been obvious. Thus, it is respectfully submitted that the Examiner’s assertions are based solely on impermissible hindsight bias and the need to meet the claim language, not any evidence or articulated reasoning based on the cited references and knowledge of one of ordinary skill in the art at the time of the present invention.

Reversal of the rejection under 35 U.S.C. §103(a) of claim 13 is respectfully requested.

Claim 16

Neither Manley nor Brooke discloses or teaches the specific limitation of claim 16 that “the plurality of pockets [are] movable with respect to the pressurized air source” and it would not have been obvious to one of skill in the art to have modified Manley in view of Brooke to have included such an arrangement. As discussed above, one of skill in the art would not have had any reason to have modified Manley in view of Brooke to include the arrangement of claim 16 because Brooke specifically teaches tray 101 and the air source being stationary and integrally connected to one another. The Examiner’s determination of obviousness with respect to claim 16 is clearly do not based on the requisite evidence or articulated reasoning required to support a prima facie case of obviousness. The Examiner merely acknowledges that Brooke specifically teaches tray 101 and the air source being stationary and integrally connected and then jumps to the

conclusion that the arrangement of claim 1 would have been obvious because applying the specific teaching of Brooke to Manley would be “extremely wasteful.” (Examiner’s Answer, page 4). The Examiner’s statements do not explain how and why, at the time of the invention, one of ordinary skill in the art would have combined the stationary and integrally connected tray 101 and the air source of Brooke with the movable pockets of Manley. (See MPEP 2142; *KSR Int’l Co. v. Teleflex Inc.*, 383 127 S. Ct. 1727, 1740-41 (2007) (“[R]ejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”)). Also, by immediately dismissing the specific teachings of Brooke as being “extremely wasteful,” the Examiner even illustrates why the alleged combination would not have been obvious. Thus, it is respectfully submitted that the Examiner’s assertions are based solely on impermissible hindsight bias and the need to meet the claim language, not any evidence or articulated reasoning based on the cited references and knowledge of one of ordinary skill in the art at the time of the present invention.

Reversal of the 35 U.S.C. §102(b) rejections to claims 16 is respectfully requested.

CONCLUSION

It is respectfully submitted that the application is in condition for allowance. Favorable consideration of this Reply Brief is respectfully requested.

Respectfully submitted,

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